

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ANN KHANNA,

Plaintiff,

-against-

1:20-CV-1428 (LEK/TWD)

DERIK ROY, *et al.*,

Defendants.

DECISION AND ORDER

I. INTRODUCTION

Plaintiff Ann Khanna brings this pro se action against Derik Roy, Lucille Lesperance, the City of Saratoga Springs, Saratoga County, Joan A. Marshman, and Thomas J. Pray. See Dkt. No. 1 (“Complaint”).

On February 1, 2021, the Honorable Thérèse W. Dancks, United States Magistrate Judge, granted Plaintiff’s application to proceed in forma pauperis, Dkt. No. 2, and recommended that the Complaint be dismissed without prejudice and with leave to amend. See Dkt. No. 4 (“Report-Recommendation”).

For the reasons that follow, the Court adopts the Report-Recommendation in its entirety.

II. BACKGROUND

A. Factual History

Plaintiff’s factual allegations are summarized in the Report-Recommendation, familiarity with which is assumed. See R. & R. at 3–5.

B. Procedural History

Plaintiff initiated this action by filing the Complaint on November 20, 2020. See

Docket; see also Compl. On February 1, 2021, Judge Dancks issued the Report-Recommendation. See Docket; see generally R. & R.

III. LEGAL STANDARD

A. Review Under 28 U.S.C. § 1915

Where, as here, a plaintiff proceeds IFP, “the court shall dismiss the case at any time” if the action: “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B). Thus, even if a plaintiff is eligible to proceed IFP, it is the court’s responsibility to determine whether the plaintiff may properly maintain the complaint. See id.

When a plaintiff proceeds pro se, “the court must construe his submissions liberally and interpret them to raise the strongest arguments that they suggest.” Kirkland v. Cablevision Sys., 760 F.3d 223, 224 (2d Cir. 2014) (per curiam) (internal quotation marks omitted).

B. Review of a Report-Recommendation

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b); see also L.R. 72.1(c). A court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). However, if no objections are made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. See Barnes v. Prack, No. 11-CV-857, 2013 WL 1121353, at *1 (N.D.N.Y. Mar. 18, 2013); see also Demuth v. Cutting, No. 18-CV-

789, 2020 WL 950229, at *2 (N.D.N.Y. Feb. 27, 2020) (Kahn, J.). “A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” § 636(b).

IV. DISCUSSION

No objections to the Report-Recommendation were filed. See generally Docket.

Accordingly, the Court reviews the Report-Recommendation only for clear error and finds none.

V. CONCLUSION

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 4) is **APPROVED and ADOPTED in its entirety**; and it is further

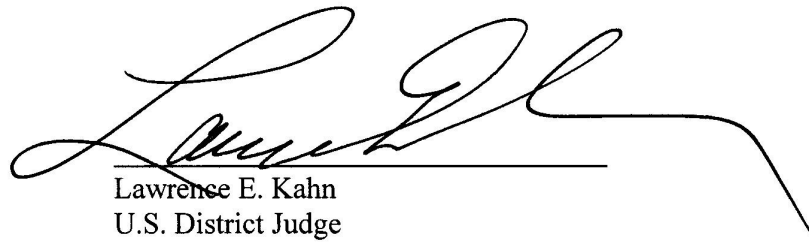
ORDERED, that Plaintiff’s Complaint (Dkt. No. 3) is **DISMISSED without prejudice and with leave to amend** within thirty (30) days of this Decision and Order. Any amended pleading must be a complete pleading, which will supersede the Complaint. Plaintiff must include all facts and causes of action in the amended complaint. No facts or claims from the Complaint will be incorporated by reference; and it is further

ORDERED, that if Plaintiff fails to file an amended complaint within the time allowed and without requesting an extension, this case will be **DISMISSED** without further order of the Court; and it is further

ORDERED, that the Clerk of the Court shall serve a copy of this Decision and Order on Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: May 19, 2021
Albany, New York



Lawrence E. Kahn
U.S. District Judge